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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/534,964

05/16/2005

Scott Allan Kendall

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EXAMINER

SALCE, JASON P

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

05/07/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/534,964	Applicant(s) KENDALL ET AL.	
	Examiner Jason P. Salce	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/05, 11/05, 2/07</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statements (IDS) submitted on 5/15/2005, 11/09/2005 and 2/22/2007 were filed on and after the filing date of the instant application on 5/16/2005. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 11-17 and 22-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vanderable (U.S. Patent No. 6,204,761) in view of the Emergency Alert System (Self-Inspection Checklist for Broadcasters and Cable System Operators).

Referring to claim 1, Vanderable discloses automatically tuning a plurality of frequency channels associated with said emergency alert function to identify one of said frequency channels having higher signal strength relative to said other frequency channels (**see Column 3, Lines 36-49**).

Vanderable also discloses using said identified frequency channel to receive emergency alert signals capable of activating said emergency alert function (**see Column 3, Line 61 through Column 4, Lines 8**).

Vanderable also discloses performing a test with said identified frequency channel wherein said test includes determining whether said identified frequency channel receives a user selected location code associated with said emergency alert function (**see Column 4, Lines 9-13**).

Although Vanderable discloses testing to determine if a SAME location code has been received (**see above**), Vanderable fails to teach performing such a test within a predetermined time period. According to Applicant's specification, such a test is executed in the form of a required weekly test (RWT).

The Emergency Alert System (EAS) reference teaches that required weekly tests are commonly performed by broadcasters and cable system operators (**see item 2 at the bottom of Page 1**). Therefore, teaching that a test to determine if location codes have been received can be performed within a predetermined time period.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the location code receiving device, as taught by Vanderable, using the RWT, as taught by the EAS reference, for the purpose of developing an EAS plan that addresses which weather service alerts stations want sent via the EAS (**see Page 1 of the EAS reference**).

Referring to claim 2, the EAS reference discloses providing an output message responsive to said identified frequency channel failing said test (**see section 9 on Page 3**).

Referring to claim 3, Vanderable discloses that said test further includes measuring signal strength on said identified frequency channel (**see again Column 3, Lines 36-49**).

Referring to claim 4, the EAS reference discloses that said predetermined time period is approximately one week (**see section 2 on Page 1**).

Referring to claim 5, Vanderable discloses enabling a user to modify an existing location code associated with said emergency alert function (**see Column 4, Lines 21-24**).

Referring to claim 6, see the rejection of claim 5.

Referring to claims 11-17, see the rejection of claims 1-6 and further note that the EAS reference teaches that the location codes are FIPS codes.

Referring to claims 22-28, see the rejection of claims 11-17.

Claims 7-10, 18-21 and 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vanderable (U.S. Patent No. 6,204,761) in view of the Emergency Alert System (Self-Inspection Checklist for Broadcasters and Cable System Operators) in further view of Gropper (U.S. Patent No. 6,323,767).

Referring to claims 7-8, Vanderable and the EAS reference disclose all of the limitations of claim 1, but fail to teach modifying an existing event code associated with said emergency alert function.

Gropper discloses modifying (or adding) an existing event code associated with said emergency alert function (**see Column 8, Lines 26-56**).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify EAS system, as taught by Vanderable and the EAS reference, using the event code addition and modification features, as taught by Gropper, for the purpose of allowing a consumer to upgrade the software used to store updated codes transmitted in SAME messages (**see Column 2, Lines 40-43 and Column 8, Lines 15-25 of Gropper**).

Referring to claims 9-10, Vanderable and the EAS reference disclose all of the limitations of claim 1, where Vanderable further teaches providing an alert output responsive to activation of said emergency alert function (**see Column 4, Line 51 through Column 5, Line 16**), but fails to teach storing the information associated with said alert output, enabling a user to access said information and enabling said user to replay said alert output.

Gropper discloses storing the information associated with said alert output, enabling a user to access said information and enabling said user to replay said alert output (**see Column 7, Lines 33-57 for storing, accessing and replaying an alert message**).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify EAS system, as taught by Vanderable and the EAS reference, using the alert information storage and retrieval functionality, as taught by Gropper, for the purpose of allowing alert messages to be reviewed by the user to determine whether the entire ASCII alert message decoded and whether the correct SAME protocol ASCII codes were transmitted and received for the particular event (**see Column 7, Lines 27-32 of Gropper**).

Referring to claims 18-21 and 29-32, see the rejection of claims 7-10.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason P Salce/
Primary Examiner, Art Unit 2623

Jason P Salce
Primary Examiner
Art Unit 2623

May 5, 2008